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May 11, 2010

**BY ECF**

Hon. Steven M. Gold  
United States Magistrate Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

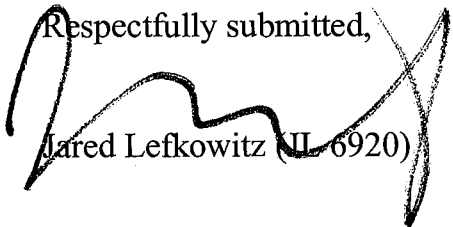
Re: Bowers v. African American Planning Commission, Inc.  
and Matthew Okebiyi, Case No 09 cv 4096

Dear Judge Gold:

I represent the plaintiff in the above referenced matter. Pursuant to and in reliance upon the representations and promises contained in the attached letter dated May 11, 2010 from Robert Whitman, counsel for the defendants, plaintiff hereby withdraws her request for a ruling on two directions not to answer in defendant Matthew Okebiyi's deposition. It is respectfully suggested that the Court cancel the conference call scheduled for May 18, 2010, unless the Court wishes to discuss the request below or other issues.

In my letter to the court requesting the ruling on the directions not to answer, I alerted the Court that I believe defendant Okebiyi had been "at best evasive and at worst had committed perjury." Counsel's letter is confirmation that defendant has indeed given false testimony. Defendant came clean only because I pressed for a ruling by this Court. In light of this, it is hereby respectfully requested that the Court direct defendants to pay ALL fees in connection with the retaking of his deposition in my office (and not only the appearance fees which defendants have already agreed to pay).

Respectfully submitted,

  
Jared Lefkowitz (IL 6920)



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May 11, 2010

**BY EMAIL**

Jared M. Lefkowitz, Esq.  
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Re: Bowers v. African American Planning Commission, Inc.,  
No. 09 CV 4096 (NG) (SMG) (E.D.N.Y.)

Dear Jared:

This is further to our discussion earlier today regarding the deposition of Matthew Okebiyi and your application to the Court regarding two instructions not to answer during that deposition.

In preparing our response to the Court and reviewing the transcript of the deposition, we have learned that Mr. Okebiyi answered incorrectly concerning his brother Solomon. Specifically, Mr. Okebiyi has spoken with Solomon more recently than he stated. Had the testimony been to this effect at the deposition, the instruction not to answer would not have been given.

Although we continue to believe that this line of questioning was irrelevant and needlessly inquisitive of personal matters, and without conceding that the instruction was improper in light of the testimony given, we are nonetheless willing to make Mr. Okebiyi available for a brief follow-up deposition session to address these points. We will pay any appearance fee charged by the court reporter for such session, although for the convenience of all concerned it should be possible to conduct the follow-up on the same day that other depositions are scheduled.

As to the second question on which an instruction was given, regarding medications, we believe Mr. Okebiyi answered your subsequent questions sufficiently (*see* Tr. at 30 (lines 4-11)) and do not see any need for follow-up on this point. However, if you disagree and would like to receive an answer to that question at the additional deposition session, we will permit it.

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Jared M. Lefkowitz, Esq.  
May 11, 2010  
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When we spoke earlier, you also stated your desire to conduct a follow-up deposition session regarding any documents produced in response to the requests you conveyed during the April 9 session. While I disagree that this would be permissible, even in light of the discussion above, we are willing in the interest of facilitating discovery to permit brief questioning of Mr. Okebiyi on these points as well, provided the questioning is limited to these specific items and reasonable follow-up. We will get you our responses to those requests and any additional documents tomorrow.

Please advise me of your response as soon as possible so that we may properly advise the Court.

Very truly yours,

SEYFARTH SHAW LLP

A handwritten signature in black ink, appearing to read "Robert S. Whitman". The signature is written in a cursive, flowing style with a large loop at the end.

Robert S. Whitman